

taxpayer bonds under such section with the same maturity as bonds issued with respect to such taxable year. To the extent that it is not practicable to issue bonds against such amount of the credit, the taxpayer shall be paid in cash. In case after the date of maturity of the bonds of any taxable year under section 780 (c) there is any credit under section 780 (a) remaining in favor of the taxpayer, attributable to such year, such remainder shall be paid to the taxpayer in cash. No amount of any payment made under this subsection to a taxpayer shall be included in gross income.

(d) Limitation.

The credit under section 780 (a) for any taxable year shall not be greater than the excess of the amount of the tax paid under this subchapter to the United States (and not credited or refunded under the internal revenue laws) in respect of such year over the amount of tax which would be payable to the United States if the excess profits tax rate were 81 per centum, or if the limitation of section 710 is applicable if the amount determined under such section were reduced by 10 per centum. (Added Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title II, § 250, 56 Stat. 937.)

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to taxable years beginning after Dec. 31, 1941, by section 201 thereof.

§ 782. Regulations.

The Secretary of the Treasury is authorized to prescribe, from time to time, such rules and regulations as may be necessary to carry out the preceding provisions of this Part. (Added Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title II, § 250, 56 Stat. 938.)

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to taxable years beginning after Dec. 31, 1941, by section 201 thereof.

§ 783. Credit for debt retirement—(a) General rule.

An amount equal to 40 per centum of the amounts paid during the taxable year in repayment of the principal of indebtedness shall, at the election of the taxpayer made in its return for such year, be allowed as a credit against the tax for such year imposed by this subchapter.

(b) Limitations.

The credit under subsection (a) with respect to any taxable year shall in no event exceed whichever of the following amounts is the lesser—

(1) An amount equal to 10 per centum of the tax imposed under this subchapter for the taxable year.

(2) An amount equal to 40 per centum of the amount by which the smallest amount of indebtedness during the period beginning September 1, 1942, and ending with the close of the preceding taxable year exceeds the amount of indebtedness as of the close of the taxable year.

(3) In case such taxable year begins in 1942 prior to September 2, 1942, and ends after September 1, 1942, an amount equal to 40 per centum of the amount by which the amount of indebtedness as of

September 1, 1942, exceeds the amount of indebtedness as of the close of the taxable year.

(4) In case such taxable year begins in 1941 or ends before September 1, 1942, zero.

No interest shall be allowed or paid by the United States on account of any overpayment of tax attributable to any credit allowed under this section.

(c) Reduction of credit and of bonds outstanding under section 780.

If a credit is allowed for debt repayment in a taxable year pursuant to this section, the amount of such credit or refund shall be deducted from the credit under section 780 (a) and the amount of bonds issued under section 780 shall, to the extent necessary, be correspondingly adjusted.

(d) Definition of indebtedness.

For the purposes of this section the term "indebtedness" means any indebtedness of the taxpayer or for which the taxpayer is liable evidenced by a bond, note, debenture, bill of exchange, certificate, or other evidence of indebtedness, mortgage, or deed of trust. (Added Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title II, § 250, 56 Stat. 938.)

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to taxable years beginning after Dec. 31, 1941, by section 201 thereof.

Chapter 3.—ESTATE TAX

SUBCHAPTER A.—BASIC ESTATE TAX

PART II.—ESTATES OF CITIZENS OR RESIDENTS OF THE UNITED STATES

SUBPART I.—COMPUTATION OF TAX

§ 811. Gross estate.

* * * * *

(d) Revocable transfers.

* * * * *

(5) Transfers of community property in contemplation of death, etc.

For the purposes of this subsection and subsection (c), a transfer of property held as community property by the decedent and surviving spouse under the law of any State, Territory, or possession of the United States, or any foreign country, shall be considered to have been made by the decedent, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse.

(e) Joint and community interests — (1) Joint interests.

To the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money

or money's worth: *Provided*, That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: *Provided further*, That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants.

(2) Community interests.

To the extent of the interest therein held as community property by the decedent and surviving spouse under the law of any State, Territory, or possession of the United States, or any foreign country, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse. In no case shall such interest included in the gross estate of the decedent be less than the value of such part of the community property as was subject to the decedent's power of testamentary disposition.

(f) Powers of appointment—(1) In general.

To the extent of any property (A) with respect to which the decedent has at the time of his death a power of appointment, or (B) with respect to which he has at any time exercised or released a power of appointment in contemplation of death, or (C) with respect to which he has at any time exercised or released a power of appointment by a disposition intended to take effect in possession or enjoyment at or after his death, or by a disposition under which he has retained for his life or any period not ascertainable without reference to his death or for any period which does not in fact end before his death (i) the possession or enjoyment of, or the right to the income from, the property, or (ii) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom; except in case of a bona fide sale for an adequate and full consideration in money or money's worth.

(2) Definition of power of appointment.

For the purposes of this subsection the term "power of appointment" means any power to appoint exercisable by the decedent either alone or in conjunction with any person, except

(A) a power to appoint within a class which does not include any others than the spouse of the decedent, spouse of the creator of the power, descendants of the decedent or his spouse, descendants (other than the decedent) of the creator of the

power or his spouse, spouses of such descendants, donees described in section 812 (d), and donees described in section 861 (a) (3). As used in this subparagraph, the term "descendant" includes adopted and illegitimate descendants, and the term "spouse" includes former spouse; and

(B) a power to appoint within a restricted class if the decedent did not receive any beneficial interest, vested or contingent, in the property from the creator of the power or thereafter acquire any such interest, and if the power is not exercisable to any extent for the benefit of the decedent, his estate, his creditors, or the creditors of his estate.

If a power to appoint is exercised by creating another power to appoint, such first power shall not be considered excepted under subparagraph (A) or (B) from the definition of power of appointment to the extent of the value of the property subject to such second power to appoint. For the purposes of the preceding sentence the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint.

(3) Date of existence of power.

For the purposes of this subsection the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

(g) Proceeds of life insurance—(1) Receivable by the executor.

To the extent of the amount receivable by the executor as insurance under policies upon the life of the decedent.

(2) Receivable by other beneficiaries.

To the extent of the amount receivable by all other beneficiaries as insurance under policies upon the life of the decedent (A) purchased with premiums, or other consideration, paid directly or indirectly by the decedent, in proportion that the amount so paid by the decedent bears to the total premiums paid for the insurance, or (B) with respect to which the decedent possessed at his death any of the incidents of ownership, exercisable either alone or in conjunction with any other person. For the purposes of clause (A) of this paragraph, if the decedent transferred, by assignment or otherwise, a policy of insurance, the amount paid directly or indirectly by the decedent shall be reduced by an amount which bears the same ratio to the amount paid directly or indirectly by the decedent as the consideration in money or money's worth received by the decedent for the transfer bears to the value of the policy at the time of the transfer. For the purposes of clause (B) of this paragraph, the term "incident of ownership" does not include a reversionary interest.

(3) Transfer not a gift.

The amount receivable under a policy of insurance transferred, by assignment or otherwise, by the decedent shall not be includible under paragraph (2)

(A) if the transfer did not constitute a gift, in whole or in part, under Chapter 4, or, in case the transfer was made at a time when Chapter 4 was not in effect, would not have constituted a gift, in whole or in part, under such chapter had it been in effect at such time.

(4) Community property.

For the purposes of this subsection, premiums or other consideration paid with property held as community property by the insured and surviving spouse under the law of any State, Territory, or possession of the United States, or any foreign country, shall be considered to have been paid by the insured, except such part thereof as may be shown to have been received as compensation for personal services actually rendered by the surviving spouse or derived originally from such compensation or from separate property of the surviving spouse; and the term "incidents of ownership" includes incidents of ownership possessed by the decedent at his death as manager of the community. (As amended Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, §§ 402 (a, b), 403 (a), 404 (a), 56 Stat. 941, 942, 944.)

* * * *

AMENDMENTS

1942—Subsecs. (e) (1), (f) (1), and (g) (1) were amended and subsecs. (d) (5), (e) (2), (f) (2, 3) and (g) (2-4) were added by act Oct. 21, 1942, cited to text.

EFFECTIVE DATE

Amendments of subsecs. (d) (5), (e) (1, 2) and (f), by act Oct. 21, 1942, §§ 402 (a), (b), 403 (a), cited to text, were made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof, except that in reference to subsec. (f), section 403 (d) of said act provided as follows:

"(1) The amendments made by this section (to sections 811 (f), 812 (d), 826 (d), 861 (a) (3)) shall not apply with respect to a power to appoint, created on or before the date of the enactment of this Act (Oct. 21, 1942, 4:30 p. m., E. W. T.), which is other than a power exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, unless such power is exercised after the date of the enactment of this Act (Oct. 21, 1942, 4:30 p. m., E. W. T.).

"(2) The amendments made by this section (to sections 811 (f), 812 (d), 826 (d), 861 (a) (3)) shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act (Oct. 21, 1942, 4:30 p. m., E. W. T.), which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

"(3) The amendments made by this section [to sections 811 (f), 812 (d), 826 (d), 861 (a) (3)] shall not apply with respect to any power to appoint created on or before the date of the enactment of this Act [Oct. 21, 1942, 4:30 p. m. E. W. T.] if it is released before March 1, 1944, or within the time limited by paragraph (2) in cases to which such paragraph is applicable; or if the decedent dies before March 1, 1944, or within the time limited by paragraph (2) in cases to which such paragraph is applicable, and such power is not exercised." (As amended by acts Dec. 17, 1942, ch. 740, 56 Stat. 1054; June 9, 1943, 7 p. m., E. W. T., ch. 120, § 10, 57 Stat. 150.)

Amendment of subsec. (g) by act Oct. 21, 1942, § 404 (a), cited to text, was made effective by section 404 (c) thereof as follows: "(c) The amendments made by sub-

section (a) (to section 811 (g)) shall be applicable only to estates of decedents dying after the date of the enactment of this Act (Oct. 21, 1942, 11:30 p. m., E. W. T.); but in determining the proportion of the premiums or other consideration paid directly or indirectly by the decedent (but not the total premiums paid) the amount so paid by the decedent on or before January 10, 1941, shall be excluded if at no time after such date the decedent possessed an incident of ownership in the policy." (As amended by acts Dec. 17, 1942, ch. 740, 56 Stat. 1054; June 9, 1943, 7 p. m., E. W. T., ch. 120, § 10, 57 Stat. 150.)

§ 812. Net estate.

* * * *

(b) Expenses, losses, indebtedness, and taxes.

Such amounts—

- (1) for funeral expenses,
- (2) for administration expenses,
- (3) for claims against the estate,
- (4) for unpaid mortgages upon, or any indebtedness in respect to, property where the value of decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate, and
- (5) reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent,

as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or property taxes not accrued before his death, or any estate, succession, legacy, or inheritance taxes. The deduction herein allowed in the case of claims against the estate, unpaid mortgages, or any indebtedness shall, when founded upon a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money's worth; except that in any case in which any such claim is founded upon a promise or agreement of the decedent to make a contribution or gift to or for the use of any donee described in subsection (d) for the purposes specified therein, the deduction for such claim shall not be so limited, but shall be limited to the extent that it would be allowable as a deduction under subsection (d) if such promise or agreement constituted a bequest. There shall be disallowed the amount by which the deductions specified in paragraphs (1), (2), (3), (4), and (5) exceed the value, at the time of the decedent's death, of property subject to claims. For the purposes of this section the term "property subject to claims" means property includible in the gross estate of the decedent which, or the avails of which, would, under the applicable law, bear the burden of the payment of such deductions in the final adjustment and settlement of the estate; and, for the purposes of this definition, the value of the property shall be reduced by the amount of the deduction under the next sentence attributable to such property. There shall also be deducted losses incurred during the settlement of estates arising from fires, storms, shipwrecks, or other casualties, or from theft, when such losses are not compensated for by insurance or otherwise, and if at the time of the filing of the return such losses have not been claimed

as a deduction for income tax purposes in an income tax return.

For the purposes of this subchapter, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration "in money or money's worth."

(c) Property previously taxed.

An amount equal to the value of any property (1) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (2) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. Property includible in the gross estate of the prior decedent under section 811 (f) and property included in total gifts of the donor under section 1000 (c) received by the decedent described in this subsection shall, for the purposes of this subsection, be considered a bequest of such prior decedent or gift of such donor. This deduction shall be allowed only where a gift tax imposed under Chapter 4, or under Title III of the Revenue Act of 1932, 47 Stat. 245, or an estate tax imposed under this chapter or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this subsection, section 861 (a) (2), or the corresponding provisions of any prior Act of Congress, in respect of the property or property given in exchange therefor.

Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this subsection shall be reduced by the amount so paid. The deduction under this subsection shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under subsections (a) and (d) and the amounts of general claims allowed as deductions under subsection (b) as the amount otherwise deductible under this subsection bears to property subject to general claims. If the property includible in the gross estate to which the deduction under this subsection is attributable is not wholly property subject to general claims—

(1) before the application of the preceding sentence, the amount of the deduction under this subsection shall be reduced by that part of such amount as the value, at the time of the decedent's death, of

such property (to which such deduction is attributable) subject to claims but not to general claims is of the value, at the time of the decedent's death, of such property, and

(2) in the application of the preceding sentence in reducing the balance, if any, of such deduction, "the amount otherwise deductible under this subsection" shall be only that part of such amount otherwise deductible (determined without regard to clause (1) of this paragraph) as the value, at the time of the decedent's death, of such property (to which such deduction is attributable) subject to general claims is of the value, at the time of the decedent's death, of such property.

For the purposes of the two preceding sentences and this sentence, "general claims" are the amounts allowed as deductions under subsection (b) which, under the applicable law, in the final adjustment and settlement of the estate may be enforced against any property subject to claims, as defined in subsection (b), and "property subject to general claims" is the value, at the time of the decedent's death, of property subject to claims, as defined in subsection (b), reduced by the value, at the time of the decedent's death, of that part of such property against which amounts allowed as deductions under subsection (b) which are not general claims may be enforced, under the applicable law, in the final adjustment and settlement of the estate. Where the property referred to in this subsection consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

(d) Transfers for public, charitable, and religious uses.

The amount of all bequests, legacies, devises, or transfers (including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made prior to the date prescribed for the filing of the estate tax return), to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia; for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, and no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise

attempting, to influence legislation. Property includible in the decedent's gross estate under section 811 (f) received by a donee described in this subsection shall, for the purposes of this subsection, be considered a bequest of such decedent. If the tax imposed by section 810, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this subsection for any transfer shall not exceed the value of the transferred property required to be included in the gross estate. (As amended Mar. 17, 1941, ch. 21, § 1, 55 Stat. 45; Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, §§ 403 (b) (1), 405 (a, b), 406 (a), 407 (a) (1, 2), 408 (a), 409 (a), 56 Stat. 943, 945, 947, 948.)

AMENDMENTS

1942—Subsecs. (b)–(d) were amended by act Oct. 21, 1942, cited to text.

1941—Subsec. (c) was amended by res. Mar. 17, 1941, cited to text, eff. Feb. 11, 1939, which inserted "or under Title III of the Revenue Act of 1932, 47 Stat. 245."

EFFECTIVE DATE

Act Mar. 17, 1941, § 1, cited to text, amending subsec. (a) (2), was made effective as of Feb. 10, 1939, by section 2 thereof.

Amendments of subsecs. (b), (c) affecting second, third, and fourth sentences of second par. and (d) adding last clause to first sentence, by act Oct. 21, 1942, cited to text, were made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

Amendment of subsec. (c), first par., by act Oct. 21, 1942, § 407 (a) (1), cited to text, and amendment of subsec. (c), second par., first sentence by section 407 (a) (2) thereof, were made applicable by section 407 (c) (1, 2) thereof as follows:

"(1) The amendments made by subsection (a) (1) to section 812 (c) first par. shall be applicable to estates of decedents dying after the date of enactment of this Act (Oct. 21, 1942, 4:30 p. m., E. W. T.), except that the reference therein to 'an estate tax imposed under his (this) chapter or any prior Act of Congress,' shall be applicable with respect to estates of decedents dying after February 10, 1939.

"(2) The amendment made by subsection (a) (2) to section 812 (c), first sentence of second par. shall be applicable with respect to estates of decedents dying after February 10, 1939."

Amendment of subsec. (d) by act Oct. 21, 1942, § 403 (b), cited to text, inserting second sentence beginning "property includible in the decedent's gross estate," was qualified in its application to certain powers by section 403 (d) thereof, set out in effective date note under section 811.

Amendment of subsec. (d), inserting parenthetical clause in first sentence, by act Oct. 21, 1941, § 408 (a), cited to text, was made applicable to estates of decedents dying after Feb. 10, 1939, by section 408 (c) thereof.

OVERPAYMENTS

Section 407 (d) of act Oct. 21, 1942, cited to text, provided as follows: "(d) If the refund or credit of any overpayment to the extent resulting from the application of subsections (a), (b), and (c) of this section (amending sections 812 (c) and 861 (a) (2) and the Revenue Act of 1926, § 303 (a, b)), is prevented on the date of enactment of this Act (Oct. 21, 1942, 4:30 p. m., E. W. T.) or

within one year from such date, then, notwithstanding any other provision of law or rule of law (other than this subsection of this section and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938, relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an estate tax erroneously collected if claim therefor is filed within one year from the date of enactment of this Act (Oct. 21, 1942, 4:30 p. m., E. W. T.)."

CROSS REFERENCES

Additional estate tax, determination of net estate, see section 935 (c) of this title.

§ 813. Credits against tax—(a) Gift tax.

(1) Revenue Act of 1924.

In case a tax has been imposed under section 319 of the Revenue Act of 1924, 43 Stat. 313, as amended by section 324 of the Revenue Act of 1926, 44 Stat. 36, upon any gift, and thereafter upon the death of the donor the amount thereof is required by any provision of this subchapter to be included in the gross estate of the decedent then there shall be credited against and applied in reduction of the estate tax, which would otherwise be chargeable against the estate of the decedent under the provisions of this subchapter (after deducting from such tax the credit provided by section 813 (b)), an amount equal to the tax paid with respect to such gift; and in the event the donor has in any year paid the tax imposed by said section 319 with respect to a gift or gifts which upon the death of the donor must be included in his gross estate and a gift or gifts not required to be so included, then the amount of the tax which shall be deemed to have been paid with respect to the gift or gifts required to be so included shall be that proportion of the entire tax paid on account of all such gifts which the amount of the gift or gifts required to be so included bears to the total amount of gifts in that year.

(2) Revenue Act of 1932 or chapter 4.

(A) If a tax has been paid under chapter 4 or under Title III of the Revenue Act of 1932, 47 Stat. 245, on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this subchapter, then there shall be credited against the tax imposed by section 810 or 860 the amount of the tax paid under chapter 4 or under Title III of the Revenue Act of 1932 with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit shall not exceed an amount which bears the same ratio to the tax imposed by section 810 or 860 (after deducting from such tax the credits provided by section 813 (a) (1) and (b)) as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate.

(B) For the purposes of paragraph (A), the amount of tax paid for any year under chapter 4 or under Title III of the Revenue Act of 1932 with respect to any property shall be an amount which

bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

(b) Estate, succession, legacy, and inheritance taxes.

The tax imposed by section 810 or 860 shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, or any possession of the United States, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent). The credit allowed by this subsection shall not exceed 80 per centum of the tax imposed by section 810 or 860 (before deducting from such tax the credits provided by section 813 (a) (1) and (2)), and shall include only such taxes as were actually paid and credit therefor claimed within four years after the filing of the return required by section 821 or 864, except that—

(1) If a petition for redetermination of a deficiency has been filed with the Board of Tax Appeals within the time prescribed in section 871, then within such four-year period or before the expiration of 60 days after the decision of the Board becomes final.

(2) If, under section 822 (a) (2) or section 871 (h), an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such four-year period or before the date of the expiration of the period of the extension.

Refund based on the credit may (despite the provisions of sections 910 to 912, inclusive), be made if claim therefor is filed within the period above provided. Any such refund shall be made without interest. (As amended Mar. 17, 1941, ch. 21, § 1, 55 Stat. 45; Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, § 410, 56 Stat. 950.)

AMENDMENTS

1942—Act Oct. 21, 1942, cited to text, amended subsecs. (a) (1), (2) (A) and (b), first par.

1941—Subsecs. (a) (2) and (b) were amended by res. Mar. 17, 1941, cited to text, eff. Feb. 11, 1939.

EFFECTIVE DATE

1942—Act Oct. 21, 1942, cited to text, amended subsecs. (a) (2) and (b) was made effective as of Feb. 10, 1939, by section 2 thereof.

Act Oct. 21, 1942, cited to text, was made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

SUBPART II.—RETURNS AND PAYMENT OF TAX

§ 826. Collection of unpaid tax.

(c) Liability of life insurance beneficiaries.

Unless the decedent directs otherwise in his will, if any part of the gross estate upon which tax has been paid consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds of such policies bear to the sum of the net estate and

the amount of the exemption allowed in computing the net estate, determined under section 935 (c). If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.

(d) Liability of recipient of property over which decedent had power of appointment.

Unless the decedent directs otherwise in his will, if any part of the gross estate upon which the tax has been paid consists of the value of property included in the gross estate under section 811 (f), the executor shall be entitled to recover from the person receiving such property by reason of the exercise, nonexercise, or release of a power of appointment such portion of the total tax paid as the value of such property bears to the sum of the net estate and the amount of the exemption allowed in computing the net estate, determined under section 935 (c), or section 861, as the case may be. If there is more than one such person the executor shall be entitled to recover from such persons in the same ratio. (As amended Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, §§ 403 (c), 404 (b), 414 (b), 56 Stat. 943, 945, 951.)

AMENDMENTS

1942—Subsec. (c) was amended in its entirety by act Oct. 21, 1942, § 404 (b), cited to text. It was also amended by act Oct. 21, 1942, § 414 (b), cited to text, which omitted "in excess of \$40,000." from first sentence, which, in addition to other changes had already been effected by amendment thereof by section 404 (b).

Subsec. (d) was added by act Oct. 21, 1942, § 403 (c), cited to text.

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

Amendment by act Oct. 21, 1942, § 403 (c), cited to text, adding subsec. (d), was qualified in its application to certain powers by section 403 (d) thereof, set out in effective date note under section 811.

§ 827. Lien for tax.

(b) Liability of transferee, etc.

If the tax herein imposed is not paid when due, then the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under section 811 (b), (c), (d), (e), (f), or (g), to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property sold by such spouse, transferee, trustee, surviving tenant, person in possession of property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien provided in section 827 (a) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth. (As amended Oct. 21,

1942, 4:30 p. m., E. W. T., ch. 619, title IV, § 411 (a), 56 Stat. 950.)

AMENDMENTS

1942—Subsec. (b) was amended by act Oct. 21, 1942, cited to text.

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

PART III.—ESTATES OF NONRESIDENTS NOT CITIZENS OF THE UNITED STATES

§ 861. Net estate—(a) Deductions allowed.

(1) Expenses, losses, indebtedness, and taxes.

That proportion of the deductions specified in section 812 (b) (other than the deductions described in the following sentence) which the value of such part bears to the value of his entire gross estate, wherever situated. Any deduction allowable under section 812 (b) in the case of a claim against the estate which was founded upon a promise or agreement but was not contracted for an adequate and full consideration in money or money's worth shall be allowable under this paragraph to the extent that it would be allowable as a deduction under paragraph (3) if such promise or agreement constituted a bequest.

(2) Property previously taxed.

An amount equal to the value of any property (A) forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent, or (B) transferred to the decedent by gift within five years prior to his death, where such property can be identified as having been received by the decedent from the donor by gift, or from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received. Property includible in the gross estate of the prior decedent under section 811 (f) and property included in total gifts of the donor under section 1000 (c) received by the decedent described in this paragraph shall, for the purposes of this paragraph, be considered a bequest of such prior decedent or gift of such donor. This deduction shall be allowed only where a gift tax imposed under Chapter 4, or under Title III of the Revenue Act of 1932, 47 Stat. 245, or an estate tax imposed under this chapter or any prior Act of Congress, was finally determined and paid by or on behalf of such donor, or the estate of such prior decedent, as the case may be, and only in the amount finally determined as the value of such property in determining the value of the gift, or the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States, and only if in determining the value of the net estate of the prior decedent no deduction was allowable under this paragraph, section 812. (c), or the corresponding provisions of any prior Act of Congress, in respect of the property or property given in exchange therefor. Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate

tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this paragraph shall be reduced by the amount so paid. The deduction under this paragraph shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under paragraphs (3) and (4) and the amount of general claims allowed as deduction under paragraph (1) of this subsection as the amount otherwise deductible under this paragraph bears to property subject to general claims. If the property includible in the gross estate to which the deduction under the paragraph is attributable is not wholly property subject to general claims—

(A) before the application of the preceding sentence, the amount of the deduction under this paragraph shall be reduced by that part of such amount as the value, at the time of the decedent's death, of such property (to which such deduction is attributable) subject to claims but not to general claims is of the value, at the time of the decedent's death, of such property, and

(B) in the application of the preceding sentence in reducing the balance, if any, of such deduction, "the amount otherwise deductible under this paragraph" shall be only that part of such amount otherwise deductible (determined without regard to subparagraph (A)) as the value, at the time of the decedent's death, of such property (to which such deduction is attributable) subject to general claims is of the value, at the time of the decedent's death, of such property.

For the purposes of the two preceding sentences and this sentence, "general claims" are the amounts allowed as deductions under paragraph (1) of this subsection which, under the applicable law, in the final adjustment and settlement of the estate may be enforced against that part of any property subject to claims, as defined in subsection (b) of section 812 which at the time of the decedent's death is in the United States, and "property subject to general claims" is the value, at the time of the decedent's death, of such property subject to claims, reduced by the value, at the time of the decedent's death, of that part of such property subject to claims against which amounts allowed as deductions under paragraph (1) of this subsection which are not general claims may be enforced, under the applicable law, in the final adjustment and settlement of the estate. Where the property referred to in this paragraph consists of two or more items the aggregate value of such items shall be used for the purpose of computing the deduction.

(3) Transfers for public, charitable, and religious uses.

The amount of all bequests, legacies, devises, or transfers (including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made prior to the date prescribed for the filing of the estate tax return), to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public

purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, and no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation. Property includible in the decedent's gross estate under section 811 (f) received by a donee described in this paragraph shall, for the purposes of this paragraph, be considered a bequest of such decedent. If the tax imposed by section 860, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

(4) Exemption.

An exemption of \$2,000. (As amended Mar. 17, 1941, ch. 21, § 1, 55 Stat. 45; Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, §§ 403 (b) (2), 405 (c), 406 (b), 407 (a) (3), 408 (b), 409 (b), 412 (a), 56 Stat. 943, 946, 947, 948, 949, 950, 951.)

AMENDMENTS

1942—Subsec. (a), pars. (1-3) were amended and par. (4) was added by act Oct. 21, 1942, cited to text.

1941—Subsec. (a) (2) was amended by res. Mar. 17, 1941, cited to text, eff. Feb. 11, 1939.

EFFECTIVE DATE

Act Mar. 17, 1941, § 1, cited to text, affecting subsec. (a) (2), was made effective Feb. 10, 1939, by section 2 thereof.

Amendments of subsec. (a) pars. (1), (2), affecting next to last sentence, par. (3) adding last clause to first sentence, and adding par. (4), all by act Oct. 21, 1942, §§ 406 (b), 405 (c), 409 (b), and 412 (a), cited to text, were made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

Amendment of subsec. (a) (2) by act Oct. 21, 1942, § 407 (a) (3), cited to text, affecting first two sentences of said par. (2), were made applicable by section 407 (c) (3) thereof as follows: "The amendments made by subsection (a) (3) (to section 861 (a) (2)) shall be applicable to estates of decedents dying after the date of enactment of this Act (Oct. 21, 1942, 4:30 p. m., E. W. T.), except

that the reference therein to 'an estate tax imposed under this chapter or any prior Act of Congress,' shall be applicable with respect to estates of decedents dying after February 10, 1939."

Amendment of subsec. (a) (3) by act Oct. 21, 1942, § 403 (b), cited to text, inserting second sentence beginning "Property includible in the decedent's gross estate," was qualified in its application to certain powers by section 403 (d) thereof, set out in effective date note under section 811.

Amendment of subsec. (a) (3) by act Oct. 21, 1942, § 408 (b), cited to text, inserting parenthetical clause in first sentence, was made applicable to estates of decedents dying after Feb. 10, 1939, by section 408 (c) thereof.

OVERPAYMENTS

Section 407 (d) of act Oct. 21, 1942, cited to text, provided as follows: "(d) If the refund or credit of any overpayment to the extent resulting from the application of subsections (a), (b), and (c) of this section, is prevented on the date of enactment of this Act (Oct. 21, 1942, 4:30 p. m., E. W. T.) or within one year from such date, then, notwithstanding any other provision of law or rule of law (other than this subsection of this section and other than section 3761 of the Internal Revenue Code or section 3229 of the Revised Statutes, or such section as amended by section 815 of the Revenue Act of 1938 (26 U.S.C., § 3761), relating to compromises), such overpayment shall be refunded or credited in the same manner as in the case of an estate tax erroneously collected if claim therefor is filed within one year from the date of enactment of this Act."

§ 864. Returns—(a) Requirement—(1) Returns by executor.

In the case of the estate of every nonresident not a citizen of the United States any part of whose gross estate situated in the United States exceeds the amount of the specific exemption provided in section 861 (a) (4), the executor shall make a return under oath in duplicate, setting forth (A) the value of that part of the gross estate of the decedent situated in the United States at the time of his death; (B) the deductions allowed under section 861; (C) the value of the net estate of the decedent as defined in section 861; (D) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax. (As amended Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, § 412 (c), 56 Stat. 951.)

AMENDMENTS

1942—Subsec. (a) (1) was amended by act Oct. 21, 1942, cited to text.

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

§ 871. Procedure in general—(a) (1) Petition to Board of Tax Appeals.

If the Commissioner determines that there is a deficiency in respect of the tax imposed by this subchapter, the Commissioner is authorized to send notice of such deficiency to the executor by registered mail. Within 90 days after such notice is mailed (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day), the executor may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. No assessment of a deficiency in respect of the tax imposed by this subchapter and no distraint or pro-

ceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the executor, nor until the expiration of such 90-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final. Notwithstanding the provisions of section 3653 (a) the making of such assessment or the beginning of such proceeding or distraint during the time such prohibition is in force may be enjoined by a proceeding in the proper court. If the notice is addressed to an executor outside the States of the Union and the District of Columbia, the period specified in this paragraph shall be one hundred and fifty days in lieu of ninety days. (As amended Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, § 413 (a), 56 Stat. 951.)

AMENDMENTS

1942—Subsec. (a) (1) was amended by act Oct. 21, 1942, cited to text, which added last sentence thereto.

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to notices of deficiency mailed after Oct. 21, 1942, 4:30 p. m., E. W. T.

CHANGE OF NAME

For change of name of Board and title of members thereof, see note under section 1100 of this title.

§ 872. Jeopardy assessments.

CHANGE OF NAME

For change of name of Board and title of members thereof, see note under section 1100 of this title.

SUPPLEMENT C.—CLAIMS AGAINST TRANSFEREES AND FIDUCIARIES

§ 900. Transferred assets.

(c) Definition of "transferee".

As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee, and includes a person who, under section 827 (b), is personally liable for any part of the tax. (As amended Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, § 411 (b), 56 Stat. 950.)

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

§ 911. Effect of petition to board.

CHANGE OF NAME

For change of name of Board and title of members thereof, see note under section 1100 of this title.

§ 912. Overpayment found by Board.

If the Board finds that there is no deficiency and further finds that the executor has made an overpayment of tax, the Board shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Board has become final, be credited or refunded to the executor as provided in section 3770 (a). No such refund shall be made of any portion of the tax unless the Board determines as part of its decision that such portion was paid within three years before the filing of the claim or the mailing of the notice

of deficiency, whichever is earlier, or that such portion was paid after the mailing of the notice of deficiency. (As amended Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, § 415, 56 Stat. 951.)

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

CHANGE OF NAME

For change of name of Board and title of members thereof, see note under section 1100 of this title.

SUBCHAPTER B.—ADDITIONAL ESTATE TAX

§ 935. Rate of tax.

(b) The tentative tax referred to in subsection (a) (1) of this section shall be the tentative tax shown in the following table:

If the net estate is:	The tentative tax shall be:
Not over \$5,000-----	3% of the net estate.
Over \$5,000 but not over \$10,000.	\$150, plus 7% of excess over \$5,000.
Over \$10,000 but not over \$20,000.	\$500, plus 11% of excess over \$10,000.
Over \$20,000 but not over \$30,000.	\$1,600, plus 14% of excess over \$20,000.
Over \$30,000 but not over \$40,000.	\$3,000, plus 18% of excess over \$30,000.
Over \$40,000 but not over \$50,000.	\$4,800, plus 22% of excess over \$40,000.
Over \$50,000 but not over \$60,000.	\$7,000, plus 25% of excess over \$50,000.
Over \$60,000 but not over \$100,000.	\$9,500, plus 28% of excess over \$60,000.
Over \$100,000 but not over \$250,000.	\$20,700, plus 30% of excess over \$100,000.
Over \$250,000 but not over \$500,000.	\$65,700, plus 32% of excess over \$250,000.
Over \$500,000 but not over \$750,000.	\$145,700, plus 35% of excess over \$500,000.
Over \$750,000 but not over \$1,000,000.	\$233,200, plus 37% of excess over \$750,000.
Over \$1,000,000 but not over \$1,250,000.	\$325,700, plus 39% of excess over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000.	\$423,200, plus 42% of excess over \$1,250,000.
Over \$1,500,000 but not over \$2,000,000.	\$528,200, plus 45% of excess over \$1,500,000.
Over \$2,000,000 but not over \$2,500,000.	\$753,200, plus 49% of excess over \$2,000,000.
Over \$2,500,000 but not over \$3,000,000.	\$998,200, plus 53% of excess over \$2,500,000.
Over \$3,000,000 but not over \$3,500,000.	\$1,263,200, plus 56% of excess over \$3,000,000.
Over \$3,500,000 but not over \$4,000,000.	\$1,543,200, plus 59% of excess over \$3,500,000.
Over \$4,000,000 but not over \$5,000,000.	\$1,838,200, plus 63% of excess over \$4,000,000.
Over \$5,000,000 but not over \$6,000,000.	\$2,468,200, plus 67% of excess over \$5,000,000.
Over \$6,000,000 but not over \$7,000,000.	\$3,138,200, plus 70% of excess over \$6,000,000.
Over \$7,000,000 but not over \$8,000,000.	\$3,838,200, plus 73% of excess over \$7,000,000.
Over \$8,000,000 but not over \$10,000,000.	\$4,568,200, plus 76% of excess over \$8,000,000.
Over \$10,000,000-----	\$6,038,200, plus 77% of excess over \$10,000,000.

(c) For the purposes of this section the value of the net estate shall be determined as provided in subchapter A, except that in lieu of the exemption of \$100,000 provided in section 812 (a), the exemption shall be \$60,000. (As amended Sept. 20, 1941, 12:15 p. m., E. S. T., ch. 412, title IV, § 401 (a), 55

Stat. 704; Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, § 414 (a), 56 Stat. 951.)

AMENDMENTS

1942—Subsec. (c) amended by act Oct. 21, 1942, cited to text, which substituted "\$40,000" for "\$60,000".

1941—Subsec. (b) was amended by act Sept. 20, 1941, cited to text.

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made applicable to estates of decedents dying after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 401 thereof.

Act Sept. 20, 1941, cited to text, was made effective only with respect to estates of decedents dying after the date of enactment of that act, by section 401 (c) thereof.

§ 936. Credits against tax.

(b) (1) If a tax has been paid under chapter 4 or under Title III of the Revenue Act of 1932, 47 Stat. 245, on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this subchapter, then there shall be credited against the tax imposed by section 935 the amount of the tax paid under chapter 4 or under Title III of the Revenue Act of 1932 with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit (A) shall not exceed an amount which bears the same ratio to the tax imposed by section 935 as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate, and (B) shall not exceed the amount by which the gift tax paid under chapter 4 or under Title III of the Revenue Act of 1932 with respect to so much of the property as constituted the gift as is included in the gross estate, exceeds the amount of the credit under section 813 (a) (2).

(2) For the purposes of paragraph (1), the amount of tax paid for any year under chapter 4 or under Title III of the Revenue Act of 1932 with respect to any property shall be an amount which bears the same ratio to the total tax paid for such year as the value of such property bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year. (As amended Mar. 17, 1941, ch. 21, § 1, 55 Stat. 45, eff. Feb. 11, 1939.)

AMENDMENTS

1941—Subsec. (b) was amended by res. Mar. 17, 1941, cited to text, eff. Feb. 11, 1939.

SUBCHAPTER C.—DEFENSE TAX FOR FIVE YEARS (Repealed)

This subchapter, consisting of § 951, was repealed by act Sept. 20, 1941, 12:15 p. m., E. S. T., ch. 412, title IV, § 401 (b), 55 Stat. 704, which, by section 401 (c) thereof, was made effective only with respect to estates of decedents dying after the date of enactment of that act.

§ 951. Repealed. Sept. 20, 1941, 12:15 p. m., E. S. T., ch. 412, title IV, § 401 (b), 55 Stat. 704.

Section, relating to defense tax for five years, was added by act June 25, 1940, 11:45 a. m., E. S. T., ch. 419, title II, § 206, 54 Stat. 521.

Act Sept. 20, 1941, repealing this section, was made effective only with respect to estates of decedents dying after the date of enactment of that act, by section 401 (c) thereof.

Chapter 4.—GIFT TAX

§ 1000. Imposition of tax.

(c) Powers of appointment.

An exercise or release of a power of appointment shall be deemed a transfer of property by the individual possessing such power. For the purposes of this subsection the term "power of appointment" means any power to appoint exercisable by an individual either alone or in conjunction with any person, except—

(1) a power to appoint within a class which does not include any others than the spouse of such individual, spouse of the creator of the power, descendants of such individual or his spouse, descendants (other than such individual) of the creator of the power or his spouse, spouses of such descendants, donees described in section 1004 (a) (2), and donees described in section 1004 (b). As used in this paragraph, the term "descendant" includes adopted and illegitimate descendants, and the term "spouse" includes former spouse; and

(2) a power to appoint within a restricted class if such individual did not receive any beneficial interest, vested or contingent, in the property from the creator of the power or thereafter acquire any such interest, and if the power is not exercisable to any extent for the benefit of such individual, his estate, his creditors, or the creditors of his estate.

If a power to appoint is exercised by creating another power to appoint, such first power shall not be considered excepted under paragraph (1) or (2) from the definition of power of appointment to the extent of the value of the property subject to such second power to appoint. For the purposes of the preceding sentence the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint.

(d) Community property.

All gifts of property held as community property under the law of any State, Territory, or possession of the United States, or any foreign country shall be considered to be the gifts of the husband except that gifts of such property as may be shown to have been received as compensation for personal services actually rendered by the wife or derived originally from such compensation or from separate property of the wife shall be considered to be gifts of the wife. (As amended Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title IV, §§ 452 (a), 453, 56 Stat. 952, 953.)

AMENDMENTS

1942—Subsecs. (c) and (d) were added by act Oct. 21, 1942, cited to text.

EFFECTIVE DATE

Amendment adding subsec. (c) by act Oct. 21, 1942, § 452 (a), cited to text, was limited in its application by section 452 (b) thereof as follows:

"(1) The amendments made by this section shall not apply with respect to a power to appoint, created on or